

## NEEDHAM PLANNING BOARD MINUTES

October 6, 2009

The regular meeting of the Planning Board held in the Selectmen's Meeting Room at the Town Hall, was called to order by Jeanne McKnight, Chairman, on Tuesday, October 6, 2009 at 7:30 p.m. with Messrs. Warner, Ruth, Jacobs and Eisenhut as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski.

### Public Hearings

#### 7:30 p.m. – Amendment to Major Project Site Plan Special Permit No. 2007-09: High Rock School, Town of Needham, Petitioner (Property located at 77 Ferndale Avenue, Needham, MA).

Upon a motion made by Mr. Jacobs, and seconded by Mr. Eisenhut, it was by the five members present unanimously VOTED: to waive the reading of the public hearing notice.

Ms. McKnight noted this was regarding the proposed solar panel. Chip Laffey stated they would like an amendment to the site assignment to allow the installation of a solar panel. The packet includes all the specifications and photos so the Board can know what it would look like from the street. The panel is imposed on the building in a location already decided. A grant has been provided to the town. Ms. McKnight noted the following correspondence for the record: a letter from Fire Inspector Robert Papetti with no comments or recommendations; an e-mail from Police Chief Thomas Leary with no comment; an e-mail from Janice Berns of the Board of Health with no comments and a letter from Town Engineer Tony DelGaizo with no comments or objections. Howard Gershman, of Blake Street, asked if this was exclusively for the siting of the panel. He asked if it was unfavorable do they have to come back for another amendment. Ms. McKnight informed him this is part of the site plan that has been approved already. If it is in another location there will have to be another hearing. Mr. Laffey stated the location shown is the optimum location for the panel. Susan McGarvey, of 66 Upham Road, stated she helped promote for an installation on Pollard. She is glad it is going on the High Rock and is looking forward to it. Mr. Jacobs noted the panel is going up on the structure. How does it create energy? Are there wires, etc. How does it work? Mr. Laffey explained it is a mirror converted to convert DC to AC and feed into the school. There is a panel in the 740 mechanical room. There are wires from the panel to the mechanical room to a plumbing chase. Mr. Jacobs asked if the wires are visible and was informed they are not.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the five members present unanimously: VOTED: to close the hearing.

Upon a motion made by Mr. Ruth, and seconded by Mr. Jacobs, it was by the five members present unanimously: VOTED: to adopt the amendment and do so in favor of the draft decision.

#### 7:45 p.m. – Definitive Subdivision Amendment: Standish Road Realty Trust, Alfred Volante, Trustee, 226 Brookside Road, Needham, MA, Petitioner (Property located at the end of Brewster Drive in Needham, MA).

Mr. Ruth recused himself from this hearing.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Eisenhut, it was by the four members present unanimously VOTED: to waive the reading of the public hearing notice.

George Giunta, representative for the applicant, noted this is normally an ANR but a condition of the decision makes it an amendment. They are subdividing Lot 1 and will convey 1,144 square feet to the abutters. There will be Lot 1B and 1A. Lot 1B meets all requirements. There are minor modifications and a flood plain change. The elevation is going from 140 to 134 so there is not an issue with houses anymore. The Conservation Commission has approved although the town is interested in buying both lots for a community farm. Both parties who had P&Ss are still interested in Lot 1B and Lot 2, if the town is not. Mr. Eisenhut asked if the town has approved a change in the flood plain and was informed yes. Ms. McKnight noted the following correspondence for the record: a memo from the Police Department with no comment; a memo from the Board of Health with no comment; a memo from the Fire

Department with no comment and a memo from the DPW with no comments or objections. Eric Lowitt noted he is the purchaser of 1A and noted he did not have enough land for a swing set for his kids. He noted this will not impact anything. Mr. Jacobs asked if an 81U is the correct reference for an ANR. Mr. Giunta noted 81P is an ANR and 81U is a subdivision.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Jacobs, it was by the four members present unanimously VOTED: to close the hearing.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Eisenhut, it was by the four members present unanimously VOTED: to approve the amendment as proposed and drafted.

Mr. Giunta noted he will be coming back in the near future for an issue with the town flood plain and the FEMA flood plain. Mr. Ruth returned to the meeting.

**8:00 p.m. – Major Project Site Plan Special Permit No. 2009-05: 1095 LLC c/b/a Comella's Restaurants, c/o 288 Washington Street, Wellesley, MA, Petitioner (Property located at 1095 Great Plain Avenue, Needham, MA).**

Upon a motion made by Mr. Jacobs, and seconded by Mr. Ruth, it was by the five members present unanimously VOTED: to waive the reading of the public hearing notice.

George Giunta Jr., representative for the applicant, noted this is family owned and they have 5 locations currently. The location is at the end of Glendoon Road across from the Mobil Station. There have been various previous uses. The space is 940 square feet on the first floor and 855 square feet in the basement. There is a parking area out back, which is an attractive feature. There are 40 spaces in the back available for the tenants. Mr. Ruth asked where the current locations are. Matt Comella noted Brookline, Concord, Wellesley, West Newton and West Roxbury. This is a small bistro type location with 15 to 25 seats open for lunch and dinner with traditional Italian. The hours will be 11:00 a.m. to 10:00 p.m. 7 days a week with a full menu. They will require a beer and wine license. People will order at the counter and the food is brought to you. Take-out is a component. They average 69% eat-in and 23% take-out. Mr. Eisenhut asked how many trip generations there would be. Mr. Giunta Jr. noted he does not know. Mr. Jacobs asked what the other 7% was and was informed retail sales of frozen food. Mr. Ruth asked if the tables are bussed by bus boys and was informed they were. Mr. Warner asked if the take-out was ordered at the same location. It is. Mr. Ruth asked which location has the most take-out. Mr. Comella noted Wellesley but it was the one with the least amount of seats. Mr. Giunta Jr. noted there is 30% take-out and 63% eat-in in Wellesley. It was noted all catering orders are put in as take-out orders. Mr. Ruth noted most of the tables are 2 seat tables and asked who the typical customer is. JP Comella noted they cater to families. Mr. Giunta Jr. reviewed the permit requests and the parking demand for the entire building. He stated they will need a parking waiver of 17 spaces. Mr. Ruth stated he wants to make clear they are not waiving more than is necessary. Mr. Eisenhut asked about take-out lunch versus dinner and was informed there is more at dinner. Mr. Giunta Jr. noted he hired a traffic engineer and he is comfortable there is enough parking. He suggests they make 2 spaces, or Glendoon be made, as take-out spaces. Ms. Newman noted they are talking about on-site spaces. Ms. McKnight noted the following correspondence for the record: a memo from the Police Chief with comments regarding prior accidents and double parking; a memo from the Fire Department with no comments or recommendations; a memo from Tony DelGaizo of the DPW with comments and recommendations; and a memo from the Board of Health with comments.

Stanley Simon, owner of the building, noted all spaces are in common. He does not know if they can designate spaces but they could probably work it out. Mr. Jacobs noted a portion of the DPW memo stated they should inform the customers not to park illegally on the streets. He asked how they would do this. Mr. Giunta Jr. stated it would be easy enough to put up signs. Ms. Newman noted the Village Fish has an entry in the back with take-out. Mr. Jacobs asked if there was a door in the back for customers. Mr. Giunta Jr. stated it was not for customers. They would have to walk through the wash room. Mr. Jacobs stated they should encourage an entry in the back. Mr. Warner asked if the toilets would be in the basement. Mark Gluesing noted not without an elevator. He stated they want more window openings and will push the kitchen back to the interior wall. They will have storage downstairs and the toilets in the back. Mr. Jacobs asked if they would have folding windows like Blu on Highland and was informed something like that. Ms. Newman asked about trash removal. Mr. Giunta Jr. noted the prior tenant had a dumpster in the back. They will add another dumpster where it was previously located. It will be emptied 2 times per week and

will be next to the rear door of the building. It is a tight area so screening may impede the lot. Ms. McKnight noted the bank did landscaping around the rear of the bank. She does not see any improvements for landscaping and asked if there were going to be any changes to the lighting. Mr. Giunta Jr. commented they are not proposing to change anything in the parking lot such as landscaping or lighting. He added they could not do much as a practical matter. They are substituting the money so it is spent on 2 new handicap accessible bathrooms. Ms. McKnight asked if there was any room for landscaping or if there was any practical way to do it along the rear of the 7 spaces. They do not think so. Ms. McKnight noted she would like to see some landscaping along the fence. Ms. Newman noted the plan application looked at the entire lot and asked if they went before the Design Review Board. They have been and they approved.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Jacobs, it was by the five members present unanimously VOTED: to close the hearing.

Mr. Eisenhut stated he was concerned with lunch time take-out. He feels they need to insist at least on 2 designated spaces or not approve take-out at lunch time. Mr. Ruth agreed with Mr. Eisenhut. They need spaces in back or none at lunch. Ms. McKnight stated there should be 2 spaces designated as temporary, 15 minutes for take-out only. If these are not provided there should be no take-out at lunch. Mr. Giunta Jr. commented they may be able to ask the town for the 2 spaces on Glendoon. Ms. McKnight stated a general concern is with the restaurant so close to residents. Are they requesting a closing time of 10:00 p.m. every night and was informed they were. Ms. McKnight stated that was good as some are 11:00 p.m. Mr. Eisenhut asked if they have learned from the other restaurants on issues such as trash pickup and hours, etc. Ms. Newman will look at the standard for Trader Joe's and Panera Bread. Mr. Jacobs noted they should require along the lines of Mr. DelGaizo's comments regarding notifying the customers about parking. Mr. Ruth added public health issues, also. Mr. Giunta Jr. stated they would like some flexibility regarding interior changes in case they need to change for the Board of Health suggestions. Ms. Newman will do a draft and give the standards for the other districts. Ms. McKnight commented fencing around the dumpster is not appropriate here. Mr. Eisenhut stated they are unanimous on granting the relief subject to appropriate conditions.

#### **8:30 p.m. – Amendment to Zoning By-Law: Map Change to General Residence Zoning District.**

Ms. McKnight noted this is an article on the warrant for the upcoming Town Meeting.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Eisenhut, it was by the five members present unanimously VOTED: to waive the reading of the public hearing notice.

George Giunta Jr. noted they had been before the Board previously and signatures have been submitted for the fall Town Meeting. The proposal is to change the zoning to 2-family and the proposed area is to the north including Vara Lane. There are existing 2-families on Central Avenue so the area in question is only on Central Avenue. He noted the appliance store, Mr. Tocci's property, the 2-family on the corner of Central and Hamilton and 5 on the other side from the river. There are already some 2-families there so there is not much change to the property. Ms. McKnight noted there was no correspondence. Ron Tocci submitted a letter of approval from Carol Geller and from David Kase of 36 Central Avenue noting he was in favor. Mr. Ruth asked about Newton Upper Falls and a vision for this area. Mr. Tocci stated there were 2 new homes, 2 newly renovated and the 2 older homes owners wrote letters. Only the appliance store would be affected and he is not interested in closing the business. Mr. Jacobs commented he would like to hear Mr. Giunta Jr.'s pitch to Town Meeting. Mr. Giunta Jr. noted there are 3 existing 2-family houses in it. It is more conducive to multi-family and appropriate for the town to have 2-family housing for diversity of the housing stock. Mr. Ruth questioned if this was spot zoning. Mr. Giunta Jr. stated there are several parcels so it avoids the spot zoning issue. Mr. Eisenhut asked what would be a reasonable basis for where the lines are drawn. Mr. Giunta Jr. noted 3 out of 8 are already 2-family. Mr. Jacobs stated he has no problem with this. His concern is with questions at Town Meeting as to why this is being done. Ms. McKnight noted her concern with the tear down and rebuild of the 2-family at the corner of Hamilton and Central. Currently there is a charming mixture of old and new. It is currently General Residence Zoning. She asked what controls it and how to prevent something like #5 from going in. She would like some proposed changes to the text of the General Residence Zone to have a better result in this area. She had an idea to continue the hearing to have a site visit. Mr. Warner noted they do not want another monstrosity like Hamilton and Central. Mr. Ruth agreed it was a good idea to go look. He feels reinvestment in the area is a goal. Mr. Tocci noted all property is within the 200 foot buffer zone. When they demolish, the Conservation Commission only allows them to build the same footprint that is there. Ms. McKnight asked what the setback requirement on

General Residence was and was informed 20 feet. Ms. McKnight feels people would tear down and put a garage on the street and not drive around to the back. She can see clearly what would happen and does not like it. Mr. Eisenhut stated he does like it. Ms. Newman asked what form will it take – restrictions put in the Single Residence district that are not in the General Residence. Mr. Giunta Jr. noted the same provisions, just not as drastic. Ms. McKnight stated she would like to press forward in continuing for a site visit.

Upon a motion made by Mr. Ruth, and seconded by Mr. Warner, it was by the five members present unanimously VOTED: to continue the hearing for a site visit Friday, October 16 at 8:00 a.m.

The decision will be at the October 20 meeting.

**Transfer of Permit: Major Project Site Plan Review No. 1998-07: Sweet Rue's, LTD., Ruth Armstrong, President, 56 Highgate Road, Needham, MA, Petitioner to Paraskevi Tsoutsoplides, Petitioner (Property located at 1056 Great Plain Avenue, Needham, MA).**

Ms. Tsoutsoplides is buying the permit and would like to keep the bakery as is. She would like to add some ethnic sweets, some breads, some coffees and crepes. She took out an oven because there was no hood and moved the register and bakery case to the front. Mr. Ruth stated they took action previously then they withdrew the request. Ms. Newman stated final official action has not been taken. Ms. McKnight noted a draft decision has been prepared. Ms. Newman could add "minor movement is ok provided the overall number of seats does not change" so they do not have to come back.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the five members present unanimously VOTED: to transfer as discussed.

**Permanent Certificate of Occupancy and Bond Release: Major Project Site Plan Review No. 2008-07: Needham Bank, Needham, MA, Petitioner (Property located at 10 Eaton Square, 1055 and 1063 Great Plain Avenue, Needham, MA).**

Ms. Newman noted she issued a temporary Certificate of Occupancy. They gave \$13,500 to cover the fence and the agreement was approved by Town Counsel David Tobin. The fence is complete and they are requesting a permanent Certificate of Occupancy and a release of the bond. Ms. McKnight noted a letter dated 9/28/09 from the DPW recommending release.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Ruth, it was by the five members present unanimously VOTED: to release the bond and issue a permanent Certificate of Occupancy.

**Amendment of Bond Agreement and Extension of Occupancy Permit: Major Project Site Plan Review No. 2007-10: Beth Israel Deaconess Hospital Needham, 148 Chestnut Street, Needham, MA, Petitioner (Property located at 148 Chestnut Street, Needham, MA).**

Roy Cramer, representative for the applicant, noted they requested a temporary Certificate of Occupancy and it was granted. They gave an agreement and check for \$600,000. Some work is done and some is not. He noted last week the state Department of Public Safety would not inspect for the temporary certificate, only a partial. Dan Walsh said there was no authorization for a partial and the state would not come back to do a final inspection. They had a ribbon cutting ceremony. They would like them to issue a partial and amend the bond agreement to reflect the actions. The concept of a partial means some areas are not included and he has identified them. One is the small area where the old main entrance was and is not to be used and they are not ready to open the MRI unit yet. They would like the Board to extend the deadline for completing the work and are asking for December 31. The Board put October 31 but some work is done and some will not be done by October 31. Mr. Cramer stated the original date of December 31 was more realistic. Mr. Jacobs stated they moved the date up to get the sidewalk done and asked why it cannot be done. Corey McNulty, of Beth Israel Deaconess, noted all pipes, etc. in the sidewalk can be done now. Mr. Warner stated he is concerned they put parking gates first then blocked off the ambulance entrance. He would like emergency entrance signs. Mr. McNulty noted the sign package was approved by the Design Review Board last night. Mr. Cramer stated they would be put up as soon as possible. Ms. Newman will coordinate with the DPW. They do not think the work is done. Mr. Jacobs asked when the sidewalk can be done. Mr. McNulty noted in the next week or so.

He could change the language in his letter requesting December 31 except the sidewalk work needs to be completed by October 31. Mr. Jacobs reiterated he wants it done as soon as possible. It is unsafe. It is a small area but he noted the sidewalk on site does not meet the street walk. Mr. McNulty noted will bring the area of sidewalk up to the rest. Mr. Cramer clarified the amendments to the bond agreement – December 31 not December 15 except that the portion of the sidewalk directly across from Friendly's will be complete by October 31. Ms. McKnight asked what the partial would be. Mr. McNulty noted the first and second floor of the new wing. Mr. Jacobs clarified the gift shop and Chapel are excluded from the Special Permit. Mr. Cramer noted yes, it is unfinished space. They can complete it but if they want to change it they have to come back. They need a partial for the state. Mr. Eisenhut noted he is happy with it as long as the MRI unit is eliminated from the partial.

Upon a motion made by Mr. Ruth, and seconded by Mr. Jacobs, it was by the five members present unanimously  
VOTED: to amend the bond agreement as set forth with changes discussed.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the five members present unanimously  
VOTED: to grant a partial Certificate of Occupancy subject to terms and conditions discussed.

#### **ANR Plan – 793 Great Plain Avenue, Needham, MA.**

Ms. Newman noted they propose to demolish the house and do 2 lots. The note indicates no determination is made regarding zoning. Both lots have required frontage and area.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Eisenhut, it was by the five members present unanimously  
VOTED: to endorse ANR.

#### **Board of Appeals – October 15, 2009.**

Paul Bisceglia, 126 Winter Street, Westwood, MA, 02090 – 459 Webster Street.

Mr. Eisenhut commented when you voluntarily tear down a non-conforming you lose your protection. He feels they should send the standard letter. Ms. McKnight disagrees. Ms. Newman noted they need to conform with whatever has been adopted. They do not know if this meets the standard. They cannot tell from what they submitted. Mr. Warner noted the submission is incomplete. It is not more than 1,800 square feet and 25% of lot coverage. Ms. McKnight noted it is a non-conforming lot.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Warner, it was by the five members present unanimously  
VOTED: to send a letter as discussed with comments they are not clear if it meets the standards.

Sprint Spectrum, LP and Clear Wireless, LLC, c/o Ricardo M. Sousa, Prince Lobel, Głovsky & Tye, LLP, 100 Cambridge Street, Suite 2200, Boston, MA, 02114 – 858 Great Plain Avenue.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Ruth, it was by the five members present unanimously  
VOTED: "No comment."

New Cingular Wireless, PCS, LLC ("AT&T"), c/o Elizabeth F. Mason, Anderson & Kreiger LLP, One Canal Park, Suite 200, Cambridge, MA, 02141 – 1555 Central Avenue.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Ruth, it was by the five members present unanimously  
VOTED: "No comment."

#### **Reports of the Planning Director and Board Members.**

Mr. Ruth recused himself from this discussion. Mr. Eisenhut noted he is the representative from the Planning Board for the CPA and he would like to know whether to recommend to Town Meeting. The vote is on October 13 with the Board of Selectmen and CPA. There are 2 lots of Volante land for purchase under 61A. They could use CPA funds to match the Purchase and Sale agreement for those 2 lots under 61A for open space. It abuts other Conservation land and has one walking easement through it that meets up with other Conservation land. The Board of Selectmen voted

unanimously to go for it. Mr. Eisenhut commented he is torn. It is not particularly attractive and has no real features. Ms. Newman noted it is a good location for a community farm. Mr. Cramer stated it would wipe out the community funds, which is a CPC concern. Mr. Eisenhut noted he has a sense there is not a lot of enthusiasm for this from the Board. Mr. Jacobs commented he was not convinced.

### Minutes

Ms. McKnight noted there were typing errors. Page 1, 1<sup>st</sup> paragraph, should be "principals"; page 2, 3<sup>rd</sup> paragraph, it should be "yews"; page 3 under the 8:00 p.m. hearing it should say "siting" not "sighting", remove the (') from Inspectors and in the last sentence it should be "educate" not "educated." Mr. Jacobs noted on page 1, 1<sup>st</sup> paragraph it should be "Tae" not "Tai" and "They are going to have" should be added before "More than one non-residential..." Delete "with his figures of" from the 2<sup>nd</sup> paragraph on page 1. Page 2, 1<sup>st</sup> paragraph, it should be "informed" not "inform" and delete the sentence "Mr. Jacobs noted they should encourage people to come in the back." Page 3, 1<sup>st</sup> paragraph, it should be "seriously" rather than "serious" and last paragraph add an "s" to "house". Page 4, 1<sup>st</sup> paragraph, delete the word "Street" after "Chapel" and change "that" to "either".

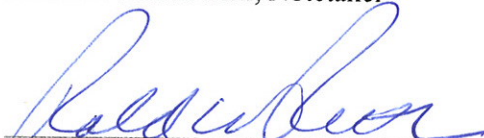
Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the five members present unanimously VOTED: to approve the minutes of 7/29/09 as amended.

Mr. Jacobs noted for the minutes of June 30, page 1, 1<sup>st</sup> paragraph, change the word "windy" to "winding"; page 2, change "with 2 waivers" to "with a waiver of 2". Page 3, last paragraph, change "Mr. Jacobs clarified" to Mr. Jacobs asked if Northbridge was". Page 4, 2<sup>nd</sup> paragraph, change "leases it back to Northbridge who..." to "leases it back and will..."

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the five members present unanimously VOTED: to approve the minutes of 6/30/09 with changes suggested.

Upon a motion made by Mr. Ruth, and seconded by Mr. Eisenhut, it was by the five members present unanimously VOTED: to adjourn the meeting at 11:15 p.m.

Respectfully submitted,  
Donna J. Kalinowski, Notetaker



Ron Ruth, Vice-Chairman and Clerk